

MOTOR VEHICLE INSURANCE

REQUIREMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd E. Kiser

Senate Sponsor: Kevin T. Van Tassell

LONG TITLE

General Description:

This bill modifies the Insurance Code by amending provisions relating to notice requirements for motor vehicle insurance carriers.

Highlighted Provisions:

This bill:

- requires an insurer that gives notice of nonrenewal or cancellation of insurance on a motor vehicle insurance policy for nonpayment of a premium to notify the lienholder if the insurer has been provided the name and mailing address of the lienholder;
- requires a lienholder to provide a current physical address of notification or an electronic address of notification to an insurer that is required to make a notification; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-21-303, as last amended by Laws of Utah 2006, Chapter 197

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **31A-21-303** is amended to read:

31A-21-303. Cancellation, issuance, renewal.

(1) (a) Except as otherwise provided in this section, other statutes, or by rule under Subsection (1)(c), this section applies to all policies of insurance:

(i) except for:

(A) life insurance;

(B) accident and health insurance; and

(C) annuities; and

(ii) if the policies of insurance are issued on forms that are subject to filing under Subsection 31A-21-201(1).

(b) A policy may provide terms more favorable to insureds than this section requires.

(c) The commissioner may by rule totally or partially exempt from this section classes of insurance policies in which the insureds do not need protection against arbitrary or unannounced termination.

(d) The rights provided by this section are in addition to and do not prejudice any other rights the insureds may have at common law or under other statutes.

(2) (a) As used in this Subsection (2), "grounds" means:

(i) material misrepresentation;

(ii) substantial change in the risk assumed, unless the insurer should reasonably have foreseen the change or contemplated the risk when entering into the contract;

(iii) substantial breaches of contractual duties, conditions, or warranties;

(iv) attainment of the age specified as the terminal age for coverage, in which case the insurer may cancel by notice under Subsection (2)(c), accompanied by a tender of proportional return of premium; or

(v) in the case of motor vehicle insurance, revocation or suspension of the driver's license of:

(A) the named insured; or

58 (B) any other person who customarily drives the motor vehicle.

59 (b) (i) Except as provided in Subsection (2)(e) or unless the conditions of Subsection
60 (2)(b)(ii) are met, an insurance policy may not be canceled by the insurer before the earlier of:

61 (A) the expiration of the agreed term; or

62 (B) one year from the effective date of the policy or renewal.

63 (ii) Notwithstanding Subsection (2)(b)(i), an insurance policy may be canceled by the
64 insurer for:

65 (A) nonpayment of a premium when due; or

66 (B) on grounds defined in Subsection (2)(a).

67 (c) (i) The cancellation provided by Subsection (2)(b), except cancellation for
68 nonpayment of premium, is effective no sooner than 30 days after the delivery or first-class
69 mailing of a written notice to the policyholder.

70 (ii) Cancellation for nonpayment of premium is effective no sooner than 10 days after
71 delivery or first class mailing of a written notice to the policyholder.

72 (d) (i) Notice of cancellation for nonpayment of premium shall include a statement of
73 the reason for cancellation.

74 (ii) Subsection (7) applies to the notice required for grounds of cancellation other than
75 nonpayment of premium.

76 (e) (i) Subsections (2)(a) through (d) do not apply to any insurance contract that has
77 not been previously renewed if the contract has been in effect less than 60 days when the
78 written notice of cancellation is mailed or delivered.

79 (ii) A cancellation under this Subsection (2)(e) may not be effective until at least 10
80 days after the delivery to the insured of a written notice of cancellation.

81 (iii) If the notice required by this Subsection (2)(e) is sent by first-class mail, postage
82 prepaid, to the insured at the insured's last-known address, delivery is considered
83 accomplished after the passing, since the mailing date, of the mailing time specified in the
84 Utah Rules of Civil Procedure.

85 (iv) A policy cancellation subject to this Subsection (2)(e) is not subject to the

procedures described in Subsection (7).

(3) A policy may be issued for a term longer than one year or for an indefinite term if the policy includes a clause providing for cancellation by the insurer by giving notice as provided in Subsection (4)(b)(i) 30 days prior to any anniversary date.

(4) (a) Subject to Subsections (2), (3), and (4)(b), a policyholder has a right to have the policy renewed:

(i) on the terms then being applied by the insurer to similar risks; and

(ii) (A) for an additional period of time equivalent to the expiring term if the agreed term is one year or less; or

(B) for one year if the agreed term is longer than one year.

(b) Except as provided in Subsections (4)(c) and (5), the right to renewal under Subsection (4)(a) is extinguished if:

(i) at least 30 days prior to the policy expiration or anniversary date a notice of intention not to renew the policy beyond the agreed expiration or anniversary date is delivered or sent by first-class mail by the insurer to the policyholder at the policyholder's last-known address;

(ii) not more than 45 nor less than 14 days prior to the due date of the renewal premium, the insurer delivers or sends by first-class mail a notice to the policyholder at the policyholder's last-known address, clearly stating:

(A) the renewal premium;

(B) how the renewal premium may be paid; and

(C) that failure to pay the renewal premium by the due date extinguishes the policyholder's right to renewal;

(iii) the policyholder has:

(A) accepted replacement coverage; or

(B) requested or agreed to nonrenewal; or

(iv) the policy is expressly designated as nonrenewable.

(c) Unless the conditions of Subsection (4)(b)(iii) or (iv) apply, an insurer may not fail

to renew an insurance policy as a result of a telephone call or other inquiry that:

(i) references a policy coverage; and

(ii) does not result in the insured requesting payment of a claim.

(d) Failure to renew under this Subsection (4) is subject to Subsection (5).

(5) Notwithstanding Subsection (4), an insurer may not fail to renew the following personal lines insurance policies solely on the basis of:

(a) in the case of a motor vehicle insurance policy:

(i) a claim from the insured that:

(A) results from an accident in which:

(I) the insured is not at fault; and

(II) the driver of the motor vehicle that is covered by the motor vehicle insurance policy is 21 years of age or older; and

(B) is the only claim meeting the condition of Subsection (5)(a)(i)(A) within a 36-month period;

(ii) a single traffic violation by an insured that:

(A) is a violation of a speed limit under Title 41, Chapter 6a, Traffic Code;

(B) is not in excess of 10 miles per hour over the speed limit;

(C) is not a traffic violation under:

(I) Section 41-6a-601;

(II) Section 41-6a-604; or

(III) Section 41-6a-605;

(D) is not a violation by an insured driver who is younger than 21 years of age; and

(E) is the only violation meeting the conditions of Subsections (5)(a)(ii)(A) through (D) within a 36-month period; or

(iii) a claim for damage that:

(A) results solely from:

(I) wind;

(II) hail;

142 (III) lightning; or

143 (IV) an earthquake;

144 (B) is not preventable by the exercise of reasonable care; and

145 (C) is the only claim meeting the conditions of Subsections (5)(a)(iii)(A) and (B)
146 within a 36-month period; and

147 (b) in the case of a homeowner's insurance policy, a claim by the insured that is for
148 damage that:

149 (i) results solely from:

150 (A) wind;

151 (B) hail; or

152 (C) lightning;

153 (ii) is not preventable by the exercise of reasonable care; and

154 (iii) is the only claim meeting the conditions of Subsections (5)(b)(i) and (ii) within a
155 36-month period.

156 (6) (a) (i) Subject to Subsection (6)(b), if the insurer offers or purports to renew the
157 policy, but on less favorable terms or at higher rates, the new terms or rates take effect on the
158 renewal date if the insurer delivered or sent by first-class mail to the policyholder notice of the
159 new terms or rates at least 30 days prior to the expiration date of the prior policy.

160 (ii) If the insurer did not give the prior notification described in Subsection (6)(a)(i) to
161 the policyholder, the new terms or rates do not take effect until 30 days after the notice is
162 delivered or sent by first-class mail, in which case the policyholder may elect to cancel the
163 renewal policy at any time during the 30-day period.

164 (iii) Return premiums or additional premium charges shall be calculated
165 proportionately on the basis that the old rates apply.

166 (b) Subsection (6)(a) does not apply if the only change in terms that is adverse to the
167 policyholder is:

168 (i) a rate increase generally applicable to the class of business to which the policy
169 belongs;

(ii) a rate increase resulting from a classification change based on the altered nature or extent of the risk insured against; or

(iii) a policy form change made to make the form consistent with Utah law.

(7) (a) If a notice of cancellation or nonrenewal under Subsection (2)(c) does not state with reasonable precision the facts on which the insurer's decision is based, the insurer shall send by first-class mail or deliver that information within 10 working days after receipt of a written request by the policyholder.

(b) A notice under Subsection (2)(c) is not effective unless it contains information about the policyholder's right to make the request.

(8) (a) An insurer that gives a notice of nonrenewal or cancellation of insurance on a motor vehicle insurance policy issued in accordance with the requirements of Chapter 22, Part 3, Motor Vehicle Insurance, for nonpayment of a premium shall provide notice of nonrenewal or cancellation to a lienholder if the insurer has been provided the name and mailing address of the lienholder.

(b) The notice described in Subsection (8)(a) shall be provided to the lienholder by first class mail or, if agreed by the parties, any electronic means of communication.

(c) A lienholder shall provide a current physical address of notification or an electronic address of notification to an insurer that is required to make a notification under Subsection (8)(a).

~~[(8)]~~ (9) If a risk-sharing plan under Section 31A-2-214 exists for the kind of coverage provided by the insurance being cancelled or nonrenewed, a notice of cancellation or nonrenewal required under Subsection (2)(c) or (4)(b)(i) may not be effective unless it contains instructions to the policyholder for applying for insurance through the available risk-sharing plan.

~~[(9)]~~ (10) There is no liability on the part of, and no cause of action against, any insurer, its authorized representatives, agents, employees, or any other person furnishing to the insurer information relating to the reasons for cancellation or nonrenewal or for any statement made or information given by them in complying or enabling the insurer to comply with this

198 section unless actual malice is proved by clear and convincing evidence.

199 ~~[(10)]~~ (11) This section does not alter any common law right of contract rescission for

200 material misrepresentation.